

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION**

OSCAR GONZALEZ,	§	No.
	§	
Plaintiff,	§	
	§	
v.	§	
	§	
EASTPOINT RECOVERY GROUP, INC.	§	
	§	
Defendant.	§	
	§	

PLAINTIFF’S COMPLAINT AND DEMAND FOR JURY TRIAL

OSCAR GONZALEZ (Plaintiff), through his attorneys, KROHN & MOSS, LTD.,
alleges the following against EASTPOINT RECOVERY GROUP, INC. (Defendant):

INTRODUCTION

1. Plaintiff’s Complaint is based on the Fair Debt Collection Practices Act, *15 U.S.C. 1692 et seq.* (FDCPA).
2. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

JURISDICTION AND VENUE

3. Jurisdiction of this court arises pursuant to *15 U.S.C. 1692k(d)*, which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy.”
4. Defendant conducts business in the State of Texas, and therefore, personal jurisdiction is established.
5. Venue is proper pursuant to *28 U.S.C. 1391(b)(2)*.

PARTIES

6. Plaintiff is a natural person residing at 304 Diamond, La Joya, Texas 78560.
7. Plaintiff is a consumer as that term is defined by *15 U.S.C. 1692a(3)*, and according to Defendant, Plaintiff allegedly owes a debt as that term is defined by *15 U.S.C. 1692a(5)*.
8. Defendant is an alleged debt collector as that term is defined by *15 U.S.C. 1692a(6)*, and sought to collect a consumer debt from Plaintiff.
9. Defendant is a national debt collection company with its main office located in Williamsville, New York and it conducts business in Texas.

FACTUAL ALLEGATIONS

10. In August of 2013, Defendant placed at least one collection call to Plaintiff seeking and demanding payment for an alleged personal debt.
11. Defendant called Plaintiff on Plaintiff's telephone number 956-739-36xx.
12. In August of 2013, Defendant called Plaintiff and left a voicemail message on Plaintiff's answering machine. *See* transcribed voicemail message attached hereto as Exhibit A.
13. In the voicemail message, Defendant's representative, "Danae" failed to meaningfully disclose the nature of her call or that the call was from a debt collector. *See* Exhibit A.
14. In the voicemail message, Defendant's representative, "Danae", directed Plaintiff to call her back at 1-702-659-9069, which is a number that belongs to Defendant. *See* Exhibit A.
15. Defendant is using false, deceptive and misleading means in connection with attempting to collect a debt by not identifying the purpose of its phone calls or that they are an attempt to collect a debt.

COUNT I
DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT

1. Defendant violated the FDCPA based on the following:
 - a. Defendant violated §1692e of the FDCPA by engaging in false, deceptive, or misleading representations or means in connection with debt collection.
 - b. Defendant violated §1692e(10) of the FDCPA by using deceptive means in an attempt to collect a debt.
 - c. Defendant violated §1692e(11) of the FDCPA by communicating with Plaintiff and failing to disclose it is a debt collector or calling for purposes of debt collection.

WHEREFORE, Plaintiff, OSCAR GONZALEZ, respectfully requests judgment be entered against Defendant, EASTPOINT RECOVERY GROUP, INC. for the following:

2. Statutory damages of \$1,000.00 pursuant to the Fair Debt Collection Practices Act, *15 U.S.C. 1692k*,
3. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act, *15 U.S.C. 1692k*
4. Any other relief that this Honorable Court deems appropriate.

RESPECTFULLY SUBMITTED,

Dated: September 16, 2013

By: /s/Ryan S. Lee
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VERIFICATION OF COMPLAINT AND CERTIFICATION

STATE OF TEXAS

Plaintiff, OSCAR GONZALEZ, states the following:

1. I am the Plaintiff in this civil proceeding.
2. I have read the above-entitled civil Complaint prepared by my attorneys and I believe that all of the facts contained in it are true, to the best of my knowledge, information and belief formed after reasonable inquiry.
3. I believe that this civil Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification or reversal of existing law.
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
5. I have filed this Complaint in good faith and solely for the purposes set forth in it.
6. Each and every exhibit I have provided to my attorneys which has been attached to this Complaint is a true and correct copy of the original.
7. Except for clearly indicated redactions made by my attorneys where appropriate, I have not altered, changed, modified or fabricated these exhibits, except that some of the attached exhibits may contain some of my own handwritten notations.

Pursuant to 28 U.S.C. § 1746(2), I, OSCAR GONZALEZ, hereby declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

8/23/13
Date


OSCAR GONZALEZ